

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

O R D E R

AND NOW, this 6th day of March, 2006, upon consideration of the Plaintiff's Motion for Summary Judgment (document No. 6) filed in the above captioned matter on January 5, 2005, IT IS HEREBY ORDERED that said Motion is DENIED.

AND, further, upon consideration of Defendant's Motion for Remand (document No. 9) filed in the above captioned matter on February 2, 2005, IT IS HEREBY ORDERED that said Motion is GRANTED.

The Court finds that the ALJ erroneously identified the opinion of a state disability examiner, upon which he materially relied, as that of a state agency reviewing physician. In light of this error, the Court finds that a remand is warranted in order to allow the ALJ to apply the appropriate weight to this examiner's report in determining Plaintiff's residual functioning capacity, obtain an independent medical expert, if necessary, and to take all other steps needed to sufficiently re-evaluate Plaintiff's claim.

See 42 U.S.C. §405(g); 20 C.F.R. §404.1520 (2003); Parker v. Harris, 626 F.2d 225, 335 (2nd Cir.1980).

s/Alan N. Bloch
United States District Judge

cc/ecf: Charles C. Bell, Esquire
Asst. U.S. Atty. Lee Karl